THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 7138 OF 2007

Dated 19th June 2007

Between:

K.Yadava Reddy

…Petitioner

and

The Commissioner,
A.P.Vaidya Vidhana Parishad,
Sultan Bazar, Hyderabad & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 7138 OF 2007

O R D E R:

The Medical Superintendent, District Headquarters Hospital, Nalgonda, the 4th respondent herein, issued a notification, inviting tenders for award of a contract, for supply of diet, to the inpatients of the hospital. The last date for submission of tenders was stipulated as 17.3.2007. The petitioner, 5th respondent, and certain others, submitted their tenders. The 4th respondent accepted the tender submitted by the 5th respondent, through proceedings dated 29.3.2007. The same is challenged in this writ petition.

The petitioner contends that the rates for diet are fixed and standardized by the Government, through orders issued, from time to time, and there was no basis for the respondents, in accepting a tender, quoting rates less than those stipulated by the State.

Respondents 4 and 5 filed separate counter affidavits. It is stated that the very purpose of inviting tenders was to get competitive rates for supply of diet, and there is no basis for the contention of the petitioner. It is their contention that the rates stipulated under G.O.Ms.No.42, dated 22.2.2006, are maximum and cannot be treated as standard. Instances are also mentioned, wherein the petitioner himself quoted rates far below than those stipulated by the Government.

Heard Sri K.L.N.Swamy, learned counsel for the petitioner, Sri S.A.Waheed Shahbaz, learned counsel for respondents 1 to 4, and Sri Nandigam Krishna Rao, learned counsel for
5th respondent.

In response to the tender notification, issued by the
4th respondent, the petitioner quoted Rs.20/- for general patient and Rs.28/- for T.B. patient, which are the rates stipulated under G.O.Ms.No.42, dated 22.2.2006. The 5th respondent, on the other hand, quoted Rs.14.38 ps, for the diet for general patient and Rs.16.50 ps. for T.B.patient. The 4th respondent accepted the tender of the 5th respondent.

The main contention advanced on behalf of the petitioner is that the rates for the diet are standardized, through the orders of the Government, and the question of quoting any amount, less than that, does not arise. It is pleaded that reduction of amount would result in lowering of the quality, and the only basis for selection of tenders must be the performance and experience of tenderers.

It is no doubt true that the Government issued G.O.Ms.No.42, dated 22.2.2006, fixing the rates of diet at Rs.20/- and 28/- respectively. That, however, is referable to the contracts that were in

force. There is nothing in the G.O. to indicate that the said amounts must be paid, irrespective of the amount quoted by the tenderes for the subsequent periods. One important document that was supplied to the tenderers is the bid form. In this, the contractors are required to quote their rates for the two categories of diet. Except this, there is no variable in the whole tendering process. If the rates were to have been uniform, and the acceptance of tender depended on any other factor, there was no occasion or basis for providing quotation of rates by the tenderers. The mere acceptance of a tender, for a sum less than what is stipulated as standard, must not necessarily result in lowering of the quality. If the tenderer fails to maintain the quality of the diet, after the contract is awarded, it shall always be open to the respondents, to terminate the same, by following the procedure prescribed by law. Therefore, the whole basis for the plea taken by the petitioner is untenable.

Another plea raised by the petitioner is that the 4th respondent is not conferred with the power to accept the tender. The record discloses that the 4th respondent submitted the proposal to the competent authority, and the latter, in turn, had accorded approval. Hence, there does not exist any procedural irregularity also.

For the foregoing reasons, the writ petition is dismissed. There shall be no order as to costs.

19th June 2007

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